

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

|                        |   |                    |
|------------------------|---|--------------------|
| JERRY LAJUAN McCAULEY, | ) |                    |
|                        | ) |                    |
| Plaintiff,             | ) |                    |
|                        | ) |                    |
| v.                     | ) | No. 4:15CV1899 HEA |
|                        | ) |                    |
| RICHARD GRAY, et al.,  | ) |                    |
|                        | ) |                    |
| Defendants,            | ) |                    |

**OPINION, MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's motions for extension of time and for appointment of counsel. The motion for extension of time is granted, and the motion for appointment of counsel is denied without prejudice.

Plaintiff moves for extra time to file his amended complaint. He says that the Justice Center does not have legal materials and that he does not have any templates to follow. He also says that he does not have access to a typewriter or word processor.

It is not necessary for plaintiff to make legal arguments in his amended complaint. Plaintiff must use the Court's civil rights complaint form, which contains the information he needs to submit a complete complaint. Plaintiff only needs to allege the facts that he claims entitle him to federal relief. That is, he must allege the "who, what, when, where" of what happened. The Federal Rules only require a "short and plain" statement of the facts. Fed. R. Civ. P. 8(a). Plaintiff should also follow the instructions in the Court's Order dated December 22, 2015, which contain information relevant to stating a case under 42 U.S.C. § 1983. The Court will send plaintiff another civil rights complaint

form, and the Court will give plaintiff another twenty-eight days to file his amended complaint. The complaint may be handwritten.

There is no constitutional or statutory right to appointed counsel in civil cases. *Nelson v. Redfield Lithograph Printing*, 728 F.2d 1003, 1004 (8th Cir. 1984). In determining whether to appoint counsel, the Court considers several factors, including (1) whether the plaintiff has presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the plaintiff's allegations; and (4) whether the factual and legal issues presented by the action are complex. *See Johnson v. Williams*, 788 F.2d 1319, 1322-23 (8th Cir. 1986); *Nelson*, 728 F.2d at 1005.

Plaintiff has presented non-frivolous allegations in his complaint. However, neither the factual nor the legal issues in this case are complex. As a result, the Court will dismiss the motion for appointment of counsel without prejudice. The Court will entertain future motions for appointment of counsel as the case progresses.

Accordingly,

**IT IS HEREBY ORDERED** that the Clerk is directed to send plaintiff a prisoner civil rights complaint form.

**IT IS FURTHER ORDERED** that plaintiff's motion for extension of time [ECF No. 8] is **GRANTED**. Plaintiff must file his amended complaint within twenty-eight (28) days from the date of this Order.

**IT IS FURTHER ORDERED** that plaintiff's motions for appointment of counsel [ECF Nos. 3, 9] are **DENIED** without prejudice.

Dated this 22<sup>nd</sup> day of January, 2016

A handwritten signature in black ink, reading "Henry Edward Autrey", with a long horizontal flourish extending to the right.

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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
\_\_\_\_\_ DIVISION**

\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
(Enter above the full name of the \_\_\_\_\_)  
Plaintiff(s) in this action. Include prison \_\_\_\_\_  
registration number(s).) \_\_\_\_\_  
\_\_\_\_\_)  
v. \_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
(Enter above the full name of **ALL** Defend- \_\_\_\_\_)  
ant(s) in this action. Fed. R. Civ. P. 10(a) \_\_\_\_\_  
requires that the caption of the complaint \_\_\_\_\_  
include the names of **all** the parties. Merely \_\_\_\_\_  
listing one party and "et al." is insufficient. \_\_\_\_\_  
Please attach additional sheets if necessary. \_\_\_\_\_)

Case No. \_\_\_\_\_  
(To be assigned by Clerk)

**PRISONER CIVIL RIGHTS COMPLAINT UNDER 42 U.S.C. § 1983**

**I. PLACE OF PRESENT CONFINEMENT:**

\_\_\_\_\_

**II. PREVIOUS CIVIL ACTIONS:**

A. Have you brought any other civil actions in state or federal court dealing with the same facts involved in this action or otherwise relating to your confinement?

YES [ ] NO [ ]

- B. If your answer to “A” is YES, describe the action(s) in the space below. If there is more than one action, you must describe the additional action(s) on a separate piece of paper, using the same format as below.

1. Parties to previous civil action:

Plaintiff(s): \_\_\_\_\_  
\_\_\_\_\_

Defendant(s): \_\_\_\_\_  
\_\_\_\_\_

2. Court where filed: \_\_\_\_\_

3. Docket or case number: \_\_\_\_\_

4. Name of Judge: \_\_\_\_\_

5. Basic claim made: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Present disposition (Is the case still pending? Is it closed? If closed, was it appealed?):  
\_\_\_\_\_  
\_\_\_\_\_

### III. GRIEVANCE PROCEDURES:

- A. Is there a prisoner grievance procedure at the institution in which you are incarcerated?

YES [ ] NO [ ]

- B. Have you presented this grievance system the facts which are at issue in this complaint?

YES [ ] NO [ ]

C. If your answer to “B” is YES, what steps did you take: \_\_\_\_\_

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D. If your answer to “B” is NO, explain why you have not used the grievance system:

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IV. PARTIES TO THIS ACTION:

A. Plaintiff(s)

1. Name of Plaintiff: \_\_\_\_\_

2. Plaintiff's address: \_\_\_\_\_

3. Registration number: \_\_\_\_\_

4. Additional Plaintiff(s) and address(es): \_\_\_\_\_

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B. Defendant(s)

1. Name of Defendant: \_\_\_\_\_

2. Defendant's address: \_\_\_\_\_

3. Defendant's employer and job title: \_\_\_\_\_

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4. Additional Defendant(s) and address(es): \_\_\_\_\_

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V. COUNSEL

A. Do you have an attorney to represent you in this action?

YES [ ]

NO [ ]

B. If your answer to “A” is NO, have you made an effort to contact an attorney to represent you in this matter?

YES [ ]

NO [ ]

C. If your answer to “B” is YES, state the name(s) and address(es) of the attorneys you contacted and the results of those efforts:

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D. If your answer to “B” is NO, explain why you have not made such efforts:

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E. Have you previously been represented by counsel in a civil action in this Court?

YES [ ]

NO [ ]

F. If your answer to “E” is YES, state the attorney’s name and address:

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[illegible]



VII. RELIEF

State briefly and exactly what you want the Court to do for you. Do not make legal arguments. (Note: If you are a **state** prisoner and you seek from this Court relief that affects the length or duration of your imprisonment, your case **must** be filed on a § 2254 form.)

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VIII. MONEY DAMAGES:

A) Do you claim either actual or punitive monetary damages for the acts alleged in this complaint?

YES ☐ NO ☐

B) If your answer to "A" is YES, state below the amount claimed and the reason or reasons you believe you are entitled to recover such money damages:

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IX. Do you claim that the wrongs alleged in the complaint are continuing to occur at the present time?

YES [ ☐ ] NO [ ☐ ]

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\_\_\_\_\_  
Signature of attorney or pro se Plaintiff(s)

\_\_\_\_\_  
Date